

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

TOMAS AFEWORKI,	)	CASE NO. C06-0628-MJP-MAT
	)	
Plaintiff,	)	
	)	
v.	)	ORDER GRANTING DEFENDANTS'
	)	MOTION TO USE RECORDS;
STEVE THOMPSON, et al.,	)	DENYING PLAINTIFF'S MOTION
	)	TO COMPEL DISCOVERY
Defendants.	)	
_____	)	

Defendants have filed a motion to use certain records and to file those records under seal. (Dkt. #33). Plaintiff has not opposed this motion. Plaintiff has filed a motion to compel discovery. (Dkt. #42). Defendants need not file a response to plaintiff's motion as the court addresses it below. Having considered the motions and the balance of the record, the court does hereby find and Order as follows:

(1) Defendants' unopposed motion to use certain records and file them under seal (Dkt. #33) is GRANTED. The Clerk shall seal the exhibits attached to the declarations of David Oster (Dkt. #38) and Eileen Diemert (Dkt. #36).

(2) Plaintiff has had at least five months, since the court issued the Pretrial Order on

ORDER GRANTING DEFENDANTS' MOTION TO USE  
RECORDS; DENYING PLAINTIFF'S MOTION TO COMPEL  
DISCOVERY

01 October 6, 2006, to conduct discovery or bring any discovery disputes to the court's attention.  
02 The court previously granted plaintiff's motion to extend discovery until February 9, 2007. (Dkt.  
03 #30). In arguing against the extension, defendants pointed out that plaintiff had yet to conduct  
04 any discovery in the case. (Dkt. #29 at 1). However, in recognition of plaintiff's *pro se* status,  
05 the court granted plaintiff additional time to collect evidence to support his claims. (Dkt. #30 at  
06 1). When the court granted this extension, the court advised plaintiff that no further extensions  
07 of time would be granted absent extraordinary circumstances. (*Id.* at 2).

08 The record shows that on February 2, 2007, plaintiff learned from counsel for defendants  
09 that defendants would not comply with his request for oral depositions, the dispute that plaintiff  
10 now wishes the court to address. (Dkt. #42, Ex. H). Yet plaintiff waited until February 16, 2007  
11 – one week after the discovery deadline had elapsed – to file the instant motion to compel.<sup>1</sup>  
12 Accordingly, because it was filed after the already-extended deadline for discovery had elapsed,  
13 plaintiff's motion to compel discovery (Dkt. #42) is untimely and therefore is DENIED.

14 (3) The Clerk shall send copies of this Order to plaintiff, to counsel for defendants, and  
15 to the Honorable Marsha J. Pechman.

16 DATED this 6th day of March, 2007.

17 

18 Mary Alice Theiler  
19 United States Magistrate Judge

---

20 <sup>1</sup> Plaintiff signed the certificate of service accompanying his motion to compel on February  
21 16, 2007. Although the motion was not received by the court until February 28, 2007, under the  
22 "prison mailbox rule," a document submitted by a prisoner is deemed to be filed the day the  
document is delivered to prison authorities for mailing to the court. *See Houston v. Lack*, 487  
U.S. 266, 270 (1988). Accordingly, the motion to compel is deemed filed on February 16, 2007.